

REMARKS

Claims 20, 22, 23, 25-29, 31, 33, 34, 36, 40-43 and 45-73 are pending. Claim 49 is objected to. Claims 22, 23, 25-29, 31, 33, 34, 36, 42, 43, 45-47, 50-59 and 68-73 are rejected. By virtue of this response, claims 29 and 49 are amended, without prejudice or disclaimer of any previously claimed subject matter. Accordingly, claims 20, 22, 23, 25-29, 31, 33, 34, 36, 40-43 and 45-73 are currently under consideration.

Claim 29 has been amended without prejudice, and to promote prosecution, to delete the recitation of “a tumor necrosis factor derivative”, “a portion of an antibody”, “a fragment of gp120” “a fragment of gp160” and “a Fab fragment”. Claim 49 also has been amended to clarify the method claimed.

Claim Objection

In the transmittal to the Advisory Action dated December 15, 2008, the Examiner objected to claim 49. In view of the amendment herein, it is requested that this objection be withdrawn or clarified as to the basis of the objection.

Claim Rejections – 35 USC § 112

Claim 29 stands rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. Claim 29 has been amended without prejudice or disclaimer to delete the recitation of “a tumor necrosis factor derivative”, “a portion of an antibody”, “a fragment of gp120” “a fragment of gp160” and “a Fab fragment”. It is submitted that this rejection should therefore be withdrawn.

Double Patenting

Claims 22-23, 25-29, 31, 33, 34, 36, 42, 43, 45-47, 50-59 and 67-73 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly obvious over claims 22-24 and 26-44 of co-pending application 11/614,462 (based on the amendment filed 4/9/08).

It is noted that this is a provisional rejection. It is requested that this rejection be withdrawn, since the claims of the co-pending application have not been patented.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, the Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 146392002300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 21, 2009

Respectfully submitted,

Electronic signature: /Madeline I. Johnston/
Madeline Johnston

Registration No.: 36,174
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
(605) 813-5840